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Intellectual Ammunition

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Potshots

Under democracy one party always devotes its chief energies to trying to prove that the other party is unfit to rule—and both commonly succeed, and are right.

–H.L. Mencken

A great part of that order which reigns among mankind is not the effect of government. It has its origin in the principles of society and the natural constitution of man. It existed prior to government, and would exist if the formality of government was abolished.

–Thomas Paine

If Bill Clinton were a CEO, an Army drill sergeant, or an assembly-line foreman, the feminists would be out for blood. With everyone else in the nation talking about little else, feminist leaders' silence speaks volumes about their willingness to put politics before principle.

–Linda Chavez

Few groups have been so consistently wrong yet so revered by the political, intellectual, and media elite as have environmentalists.

–Walter Williams

The smallest minority on Earth is the individual. Those who deny individual rights cannot claim to be defenders of minorities.

–Ayn Rand

Y2K: Silver Bullet, Apocalypse, or Tempest in a Teapot?

Don L. Tiggre

Y2K. The year 2000 computer problem. The Millennium Bug. Just about everyone has heard of it, but no one really knows what will happen when the clocks tick over to 00:00:01 on January 1, 2000.

Uncertainty notwithstanding, there are some useful Y2K considerations that market champions and advocates of less government would do well to keep in their stock of intellectual ammunition.

First, they should recognize the uncertainty. There are computer experts—people who have worked in the field for decades—who are certain that nothing major will happen. They say that a few businesses with exceptionally inept management might go under, but the *scare stories are unrealistic and irresponsible.*

There are also computer experts—people who have worked in the field for decades—who are certain that there is simply no way everything that needs fixing will be fixed on time. They claim there are not enough people to do the job, even if the money to pay them could be found.

If the experts do not agree, how then should journalists, policy analysts, legislators, and other lay people evaluate the situation? How should they advise those who rely upon them?

Regardless of how difficult it is to predict the future, much *is* known about the problem today. People—especially opinion leaders—should inform themselves. They should know what it means that many computers "think" all years are 19-something. They should be able to explain to others why most businesses and government agencies cannot simply turn their clocks back to "give them more time." They should be aware that many systems use 99 as a null value, and that the fiscal year 2000 will be hitting various organizations throughout 1999. *And most importantly, they should know* what kinds of systems might be affected.

Even the most skeptical commentators agree that, at the very least, Y2K will be expensive to fix, and *some* things will not get fixed on time. Utah's Senator Bennett, who chairs a US Senate committee on Y2K, estimates that it will cost $1.4 billion to fix the computers at the Department of Treasury (not including the IRS, which has tried and failed repeatedly to update its computer systems) *and $600 billion for all the computers in the* world that need fixing. Some estimates for the global figure run as high as $1.635 trillion—that's more than the US government's entire budget last year.

Except by obtaining loans, this cost can-

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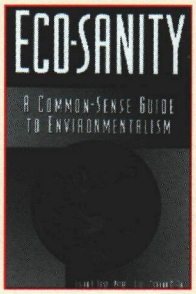

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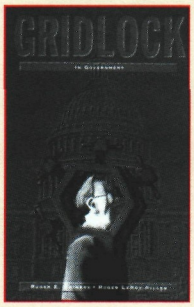

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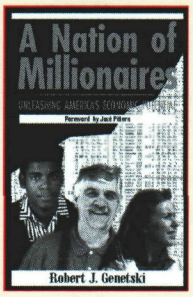

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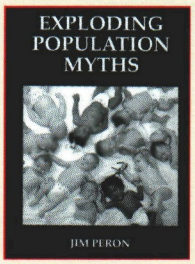

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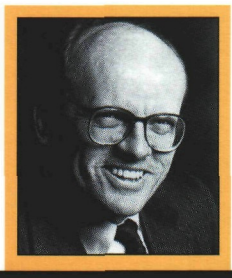

News from the Heartland

by Dan Miller
Publisher

Regulation has become America's version of socialism.

A recent report from the Competitive Enterprise Institute, *Ten Thousand Commandments*, tallies the price tag for implementing and sustaining federal regulations. The grand total is $688 billion *per year*. More than 4,400 new regulations seeped through the bureaucratic pipeline in the last year, imposing at least $12.5 billion yearly in future costs. One-hundred-and-twenty-five rules qualified for "economically significant" status: They will cost at least $100 million apiece annually.

That's a huge transfer of wealth, typically from a productive sector of the economy—the regulated businesses or industries driven by consumer demand in a relatively free market—to another sector that exists only to supply the regulatory upholstery.

Just how unproductive that kind of regulation can be is illustrated in Murray Weidenbaum's column on page 11. Weidenbaum notes that virtually none of the $70 billion-plus spent each year under the Americans with Disabilities Act and related programs is spent on rehabilitation, retraining, or assistance devices, such as computer-aided prosthetics. Instead, the money is doled out the old-fashioned way: welfare payments.

No wonder, then, that Fred Smith, president of the Competitive Enterprise Institute, laments what he called America's version of socialism.

And there's much to lament. After a spurt of deregulation activity during the Ford administration, reregulation is back on the table for such industries as airlines, financial services, and telecommunications. It's easy to see the reasons why. First, regulators enjoy an enormously easy job. They are always the good guys, and they have the press clippings to prove it. They protect the public from airlines that cut corners on safety and abandon service to small cities; investment analysts who prey on old folks and the gullible; telephone companies that want to offer local service *and* long distance.

Regulators are waxing strong simply because that's what regulators do: Unless their agencies are obliterated and the staff spread to the winds, the survivors of streamlined government will soon invent ways to expand and grow their bureaus.

Clyde Wayne Crews Jr., a former US Senate staffer on regulatory affairs and now a fellow at the Competitive Enterprise Institute, recommends a savvy strategy for loosening the regulatory chokehold. He advises against any grand regulatory overhaul that would mandate quantitative cost-benefit analyses. Instead, he says, "incremental steps that summarize already available but scattered data can go a long way toward transforming today's regulatory culture toward one of maximum disclosure. Such steps would be far more difficult to oppose in the public arena."

That means ordering the Office of Management and Budget to define more precisely such regulatory terms as "significant rule"; to distinguish between rules that are classified major and minor; and to identify which rules affect the private sector and which are mere administrative rulings that affect only agency procedure.

"If Congress can begin ensuring transparency and disclosure, and take responsibility for the growth of the regulatory state," says Crews, "it will fulfill citizens' right to demand no regulation without representation."

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not be spread out; the fiscal year 2000 will be upon us in months. So, the very least that can be forecast is a huge drain on the economy worldwide, one that has not been planned for by most businesses and governments. A recession would be a very plausible consequence of a rapid diversion of funds from production and growth to damage control.

Even the most skeptical commentators agree that Y2K will be expensive to fix, and some things will not get fixed on time.

Among the more concerned commentators—by no means the most alarmist—is Senator Bennett, who believes a recession is all but inevitable. He also fears that 40 percent or more of the nation's power grid will go down in the first moments of the year 2000. The consequences of that in itself are frightening, let alone what could happen to telecommunications and other critical computer-intensive industries.

A single set of power lines in eastern Canada was brought down by a powerful ice storm last winter, leaving a million people without electricity during the coldest months of the year. The impact of nearly half of the US (125 million people) being without power in January would be difficult to describe without resorting to fiction—and such a scenario is by no means the most dire one predicted!

Another consideration that must not be overlooked is the danger arising from the very attempts to make fixes. In the now-famous "Smith Barney" screw-up, $19 million was accidentally added to each of 525,000 financial management accounts overnight. That happened while expert programmers were implementing a Y2K fix. The new software was thoroughly tested off-line first; the people implementing the fix obviously thought it would be safe and never dreamed that a ten trillion dollar error would result.

As 1999 gets underway in a few weeks, and the fiscal year 2000 looms closer and closer, we can reasonably expect such mistakes to increase in frequency and magnitude of harm done. It is neither exaggeration nor hysteria to predict that, as computer-controlled heavy and medical equipment malfunction, the harm could even be lethal.

An interesting feature of some of the more gloomy predictions is how many people who could be called "anti-government" believe in them. Many libertarians, patriots, and "ultra-conservatives" believe the Y2K problem will cause most governments to come to a halt, and create widespread economic turmoil. Some welcome this as a silver bullet that will slay the beast in Washington DC. Others fear that turmoil will lead to martial law, and the entire fabric of society will dissolve into an apocalypse.

Such extreme predictions should be taken with a grain of salt, especially when coming from people who would love to see governments come crashing down. However, the sobering truth is that no one can say they are impossible.

So what does a responsible person do, and urge others to do?

At the very least, people should be urged to think about the possibilities and form contingency plans. This costs very little, and could prove more important than a basement full of supplies. While it won't be useful for people to bankrupt themselves buying emergency equipment, those who have some disposable income would do well to put some of it into commodities a sensible person might want to own anyway, or that can be liquidated at little loss. Gold, guns, and generators are examples of such commodities.

People should also look to things they own or count on that might not be Y2K-compliant. A good rule of thumb would be: "If it has a chip in it and has any way of tracking time or knowing what time it is, check with the manufacturer." This does not apply only to items with functions dealing primarily with dates or schedules. For example, Magellan, manufacturer of the Magellan Trailblazer series GPS and Trailblazer XLGPS receivers, has warned customers that their global position units will not work after January 1, 2000. Also, many late model cars contain computer chips, and a number of these are known to be non-compliant. Checking with your local dealer, unless you own a pre-1980s vehicle, would be a reasonable precaution. And let us not overlook the obvious: check your computer! (A handy utility for doing so can be located at: http://www.zdnet.com/vlabs/y2k/testy2k.html)

The fiscal year 2000 will hit different companies and agencies at different times in 1999, providing a spread-out dress rehearsal. People should do what they can to make sure the critical systems of employers, banks, suppliers, customers, and others are Y2K-compliant before then, and watch carefully as 1999 progresses.

The public sector—the government—will bear the most careful watching. People in the federal government, in particular, have a track record of withholding the truth when they believe the public is better off in the dark.

Pay no attention to official press releases in October 1999, when the federal government goes into fiscal Y2K. Read the *Drudge Report* instead, or check the local help-wanted ads to see if federal agencies are hiring large numbers of people . . . to do by hand what the computers have ceased doing.

Most importantly of all, follow the admonition of Robert Higgs' *Crisis and Leviathan: Critical Episodes in the Growth of American Government*: Be wary of efforts made by various agencies to use Y2K as an excuse to increase their power. Nationwide martial law may be an extreme example, but state and even local governments are known to use moments of panic to enact "emergency" measures that are never repealed. In Senator Bennett's home state of Utah, for example, the sales tax that was passed as an emergency measure more than sixty years ago is still in place.

Be wary of efforts made by various agencies to use Y2K as an excuse to increase their power.

The Millennium Bug could bring on serious hard times, or it could prove to be the next *War of the Worlds* scare: a tempest in a teapot. Regardless of which scenario turns out to be nearer the truth, those who think government in America has already exceeded its prescribed bounds would be well-advised to keep a watchful eye over their servant, lest it seize any more excuses to become a fearful master.

Don L. Tiggre is a freelance political analyst and writer whose first novel—*Y2K: The Millennium Bug*—is available at http://www.xlibris.com/Y2K.html. (The novel predicts total dissolution of governments only because the author thought that scenario more interesting—and useful for getting people to wake up to the problem—not because he believes it to be the most likely outcome. The society-transforming scenario provides an excellent backdrop for teaching the freedom philosophy and illustrating certain economic and political principles. See http://www.allwest.net/ralston/ for details.)

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Crime

Morgan O. Reynolds

Morgan O. Reynolds is director of the Criminal Justice Center at the National Center for Policy Analysis.

A Suspicious War on Terrorism

Last August, terrorists bombed US embassies in Africa, with heavy loss of life and property. After launching two missiles at sites in the Sudan and Afghanistan, the President and Secretary of State declared a sustained war on terrorism, warning of casualties on both sides.

Meanwhile, under the Defense against Weapons of Mass Destruction Act, drafted in response to the Oklahoma City and World Trade Center bombings, Congress allocated $100 million for domestic preparedness in 120 cities and put the Pentagon in charge of the project. At a massive practice drill in Philadelphia in September, organizers refused to say how many participated because they wanted to keep their capabilities secret.

This is all pretty suspicious. Truth is the first casualty of war, isn't it? And isn't war the health of the state? The standard ploy in the nation's capital is to claim 1) an immense problem spinning out of control and 2) a desperate need for a federal remedy, with more power, money, and people shifted to government.

Because we have an open society, the United States is relatively free of terrorism. Most terrorism today is state-sponsored.

Most terrorism today is state-sponsored. The word terrorism, in fact, originated in the French revolution when the government instituted a "Reign of Terror" to execute political opponents, confiscate their property, and terrorize the population into submission.

Because we have an open society, the United States is relatively free of terrorism (except that practiced by the federal government). Many security experts don't understand this. Instead, they say the US has long been a terrorist's dream: Its borders are relatively open and its population huge. Its domestic arms trade and liberal gun laws allow a society awash in weapons.

The value we place on individual liberty makes it tough for authorities to clamp down, as does our inexperience with terrorism. "It is a Herculean problem," says Dr. Bruce Hoffman, director of the Center for the Study of Terrorism and Political Violence at Scotland's St. Andrew's University.

Hoffman doesn't get it, but the people of the early American republic understood. The safest guarantee of a stable society is not repression from a central government, but full protection of all liberties, and tight limits on centralized power. As David Kopel of the Independence Institute explains, when the government did overreact—as in the case of the 1798 Alien and Sedition laws—the people resisted.

In countries where terrorists set off bombs at will—Britain and Israel, for example—extreme anti-terrorist measure have been ineffective. Internment in Northern Ireland, for instance, inflamed Catholic resentments. So did broadcast bans on leaders of Sinn Fein, the political wing of the Irish Republican Army. So do ID checks of people leaving Catholic neighborhoods. Britain's Prevention of Terrorism Act allows police to detain suspects for days without charge while they search for evidence. Britain chose the Big Hammer instead of the scalpel, and to paraphrase Ben Franklin, its people gave up essential liberty to obtain temporary safety and got neither. It would be foolish for Americans to do likewise.

What can our government do with a scalpel to combat terrorism, and respect civil liberties?

- Reduce foolish American intervention overseas. Fewer provocations imply fewer risks from retaliatory terrorism.
- Eliminate its own terrorism. The federal government too often behaves in a terrifying manner, which has led a majority of Americans to fear their own government.
- Intelligence, intelligence, intelligence. Knowledge of who, what, and where is crucial to successful counterterrorism.
- Sharpen the tools to destroy terrorists and give no quarter.

Determination is vital. Even the United Nations recognizes an "inherent right of self defense," which goes beyond tit-for-tat responses. In national security issues, nation states are not limited to the standard of proof required in criminal courts of law. Abraham D. Sofaer, a former federal judge, writes, "The criminal justice system is pathetically inadequate as a means for deterring state-sponsored terrorism. . . . To deter such acts requires direct pressure against the groups or governments responsible."

The President could announce this serious terrorism policy: whenever a foreign government perpetrates a terrorist attack against Americans, here or abroad, the United States will retaliate personally—against the head of that government. After the Reagan administration tried to kill Mohammer Khaddafi in a bombing raid, Libyan terrorism diminished.

Israel is the most security-conscious nation in the world, but let's not "Israelize" America. Everything that terrorists do is already illegal. Federalizing and militarizing criminal law will make America more dangerous, not safer.

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Murder by the State

Far more people have been murdered by their own government—at least 170 million—than by terrorists. (National Center for Policy Analysis, September 1997, 24 pp.)

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Education

George Clowes

George Clowes is managing editor of *School Reform News*, a monthly newspaper published by The Heartland Institute.

Private Schools More Integrated than Public

Government-run public schools are generally considered to have a more diverse mix of students than private schools, but a new study reveals that private schools actually offer a more racially integrated environment.

Integration at private schools is more extensive because private school attendance is not as closely linked to where a student lives as is the case with public schools, which tend to reflect and reinforce racial segregation in housing.

"Because private schools do not require that their students live in particular neighborhoods, they can more easily overcome segregation in housing to provide integration in school," explain Jay P. Greene and Nicole Mellow of the University of Texas at Austin. Their study, "Integration Where It Counts: A Study of Racial Integration in Public and Private School Lunchrooms," was presented in September at the American Political Science Association annual meeting in Boston.

Rather than simply looking at the racial makeup of a school, Greene and Mellow captured the extent to which integration is producing positive social interaction. Using a sample of 19 public and 19 private schools, they observed the interactions of over 4,300 students in school lunchrooms, recorded where students sat by race, and calculated the percentage of students who had a student of a different racial group among one of the five students sitting next to or across from them.

The researchers found that while almost two-thirds (63.5 percent) of private school students were in an integrated lunchroom setting, less than half (49.7 percent) of public school students were in a similarly integrated setting.

"We should no longer accept unquestioningly the widely held view that public schools are better at integration than private schools," conclude Greene and Mellow.

"If we are serious about the benefits of racially heterogenous school experiences," they note, then policy proposals that would "detach schooling from housing"—such as school choice programs—should be given serious consideration. Such policies would promote integration, without the risk that failure would damage property values.

Academics Over Integration

Although white and African-American parents desire integrated schools, an overwhelming majority of African-American parents recently surveyed say that public schools have a more important priority: Raising academic standards and achievement.

By an 80 percent to 9 percent margin, African-American parents want public schools to focus on academics over promoting integration and diversity, according to a national poll conducted by Public Agenda in collaboration with the Public Education Network.

"Too often, the schools work so hard to achieve integration that they end up neglecting their most important goal—teaching kids," said three-quarters of black (73 percent) and white (77 percent) parents interviewed for the study, "Time To Move On: African-American and White Parents Set An Agenda for Public Schools."

> *African-American parents want public schools to focus on academics.*

While eight in ten black and white parents agreed that integrated schools can improve race relations in America, most don't feel that schools should make integration a high priority. That's because more than half (51 percent) of black parents and almost three-quarters (72 percent) of white parents say integrated schools make little difference in the education children receive.

The 52-page report was published in July 1998. It is available for $10 from Public Agenda, 6 East 39th Street, New York, NY 10016, 212/686-6610.

"Racist" Label Angers Black Bishop

A black minister urged leaders of African-American groups opposed to school vouchers to argue the merits of their case rather than stoop to "racial mudslinging." He also called on the black leaders to "respect the integrity of black Americans, the majority of which support school choice."

Responding to a September 10 anti-voucher news release issued by People for the American Way on behalf of national African-American leaders, Bishop Earl W. Jackson Sr. of Boston, Massachusetts said that the groups—the Congressional Black Caucus, the NAACP, and the African American Ministers Leadership Council—should be ashamed of what they had done.

"Black Americans have the right to ask why their so-called leadership pumps money and resources into keeping low-income parents from choosing where their children go to school," said Jackson, National President of the Samaritan Project. "They pretend to be our children's leaders, yet instead, they choose to fight school choice the only way they know how: with sophistry and by attacking the other side with spurious 'racist' labels," he added.

The Samaritan Project is an organization dedicated to implementing racial reconciliation built on faith, personal responsibility, and rebuilding the family.

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Integration Where it Counts: A Study of Racial Integration in Public and Private School Lunchrooms

Two University of Texas-Austin researchers conclude that private schools offer a more racially integrated environment than do public schools. (Conference paper, August 1998, 11 pp.)

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Environment

Jonathan H. Adler

Jonathan H. Adler is director of environmental studies at the Competitive Enterprise Institute.

A Pressing Problem for Property Rights

Del Monte Dunes at Monterey Ltd. wanted to build a residential development on the Pacific coast. But the city of Monterey, California, was determined that no homes would ever be built on Del Monte's property.

In 1981, the city denied a permit to build 344 units on a 37-acre coastal parcel, but informed the developers that a smaller development would pass muster. The landowners then proposed building 264 units. Nope, said the city, try something smaller. So Del Monte came back with a 224-unit proposal. No dice. Finally, Del Monte proposed 190 units . . . and again the city would not approve the development.

No matter what Del Monte proposed, the city was prepared to say no. Monterey blocked construction on the western third of the property to preserve access to the public beach. It blocked construction on the eastern third so that buildings would not obstruct highway motorists' view of the dunes. And the middle third? That, the city declared, was essential habitat for an endangered butterfly, so construction would not be allowed there either.

The city's refusal to allow Del Monte to build on its own property destroyed the value of the land. The company was forced to forego its development plans and sell its land to the State of California. To right this injustice, Del Monte responded in the American way: it sued.

Because the city's regulation had "taken" Del Monte's property for public use without compensation, the group charged the city with violating the Fifth Amendment. A federal court agreed, and a jury awarded Del Monte $1.45 million for deprivation of use. The city appealed, and the Supreme Court heard the appeal on October 7.

Few landowners who lose the right to make reasonable use of their land are as fortunate as Del Monte, for few ever get their day in federal court. Although the "takings clause" of the Fifth Amendment clearly states "nor shall private property be taken for public use without just compensation," state and local agencies routinely take private property through the imposition of land-use controls without ever having to answer for their actions in federal court, let alone pay the victims of their regulatory overreach a dime.

Del Monte got into federal court on a technicality not available to most landowners. Under current law, if a state or local regulatory agency imposes excessive land-use controls on private property, the landowner must exhaust all potential remedies at the state level before going to federal court. Until that point, the case is not yet "ripe" for review. Yet once a state court has ruled against the landowner, that landowner is generally precluded from making a claim in federal court. As a result, the vast majority of takings cases brought in federal court are never heard. Indeed, one recent study found that from 1990 to 1997, over 80 percent of takings cases brought in federal court were dismissed on ripeness grounds.

Some lawmakers are seeking legislation to right this wrong. In the last Congress, Rep. Elton Gallegly (R-California) and Sen. Orrin Hatch (R-Utah) pushed legislation to address the ripeness issue and other procedural hurdles that private landowners face. Under the Gallegly bill, once a state or local agency rejected a landowner's permit, and the landowner sought to appeal the decision without success, the landowner could proceed to federal court. The bill would not change the legal definition of a taking, nor would it restrict or redefine the regulatory authority of local land-use agencies. It would simply ensure that landowners got their day in court.

> *State and local agencies routinely take private property through the imposition of land-use controls without ever having to answer for their actions in federal court.*

The Gallegly bill, known as the Private Property Rights Implementation Act, passed the House in 1997 by a wide margin, but it failed to overcome a filibuster in the Senate. Environmental activists and other defenders of government land-use control recognized that lowering the hurdle posed by the ripeness standard would mean more government agencies would be held legally accountable. Some, like the city of Monterey, would have to pay for violating private property rights.

When most Constitutional rights are violated, there are few barriers to seeking a remedy in federal court. Yet when a landowner's property is taken for public use without compensation, ripeness and other procedural rules present a substantial obstacle to their ability to seek redress. This will not change until something like the Private Property Rights Implementation Act is enacted.

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What to Do When Personally Confronted by Unjust Zoning

What should you do if your property rights are unjustly threatened through zoning laws? (Property Rights Foundation of America, May 1996, 2 pp.)

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Health Care

Twila Brase, RN, PHN

Public health nurse Twila Brase is president of Citizens' Council on Health Care.

HMOs' Rise Driven by Government, Not Market

Dissatisfaction with HMOs has led some to call for increased regulation of the HMO industry. Government officials express concern for patient protection and access to health care. Yet government action did much to encourage the spread of HMOs—and government action continues to steer people into HMOs.

Unbeknownst to most, Congress has essentially mandated managed care for everyone. In response to escalating costs in the Medicaid and Medicare programs, Congress looked to HMOs for assistance. In 1973 it passed the HMO Act, which gave nonlicensed HMO executives the power to challenge the medical judgment of licensed physicians and offered subsidies to HMOs. The act also mandated that all businesses with more than 25 employees offer HMOs as a health care option. Until then, most employers, fearing increased costs, had avoided HMOs.

In 1995, Congress repealed the employer mandate, but by then, HMOs had gained a solid position in the medical marketplace. (According to the Health Resources Services Administration, the percentage of working Americans with private insurance enrolled in managed care rose from 29 percent in 1988 to over 50 percent in 1997. By June 1996, over 40 percent of Medicaid beneficiaries were enrolled in managed care plans.) In 1985, Congress began allowing states, through Medicaid Section 1115 waivers, to herd Medicaid recipients against their will into managed care programs.

> *Contrary to the denials of public officials, managed care continues to be the goal of government health care bureaucrats.*

Today, the Department of Health and Human Services touts the waivers as providing "states with the much-needed flexibility to develop innovative solutions." That flexibility, however, violates federal Medicaid law, which prohibits limits on treatment or choice of doctor. State after state sought the waiver in order to cut costs.

Despite managed care's failings, and contrary to the denials of public officials, managed care continues to be the goal of government health care bureaucrats. The Department of Health and Human Services, for example, was chided by a federal court in August for renewing contracts with HMOs that violate Medicare regulations.

The Department of Health and Human Services also created the Center for Managed Care (CMC) within the Health Resources Services Administration. An announcement about the CMC, tucked away in the *Federal Register*, is further evidence that despite earnest statements of great concern for patient protection and access to health care, federal officials support managed care.

According to the announcement in the August 26, 1998 *Federal Register*, the Center for Managed Care is meant to provide "leadership, coordination, and *advancement* of managed care systems" (emphasis added). Furthermore, the announcement states that the CMC "develops working relationships with the private managed care industry to assure mutual areas of cooperation."

Minnesota provides an example of the cozy relationship that can benefit state officials and HMOs at the expense of medical freedom.The state had promised more than it could afford to public aid recipients. HMOs wanted more revenue. HMOs agreed to limit the state's risk by offering a fixed price (capitation) for Medicaid enrollees if they got the whole market (everyone's money). To do this, state legislators passed a health care reform law that included asking permission from federal officials to place all public aid recipients into managed care, and granting an exception to antitrust laws to enable HMO mergers. The Robert Wood Johnson Foundation helped underwrite the cost of the various state health care task forces which developed from the reform proposals. The subsequent consolidation and exodus of insurance companies then forced people into vertically integrated managed care systems.

By mandating managed care for some patient groups, and by passing legislation allowing HMOs to deny care, the state has assured maximum profit for HMOs, with little risk. Public officials profit politically by promising "free" health care. Managed care allows politicians to promise health care without actually guaranteeing access to it. It is also a way to bring about the socialization of medical care: if managed care for Medicaid recipients is a "success," why not have the government run a similar program for all citizens?

Americans are rightly concerned about managed care. However, in public policy as in medicine, proper diagnosis precedes proper treatment. Proposals to increase the regulation of HMOs stem from an incorrect diagnosis. Government-directed managed care is not the cure; individual choice is.

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Solving the Problems of Managed Care
The solution to managed care complaints is to promote individual insurance. (National Center for Policy Analysis, January 1998, 2 pp.)

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Law

Free the Airwaves

Scott G. Bullock

Scott G. Bullock is an attorney at the Washington, D.C.-based Institute for Justice, which represents Roy Neset in his case before the FCC.

Roy Neset is a farmer in Tioga, North Dakota. He is also an outlaw, at least in the eyes of the Federal Communications Commission (FCC) and its misguided campaign to eliminate low-power radio.

There is one radio station in the Tioga area, an AM country station. Neset wanted to listen to talk radio while cultivating fields in his tractor, so he obtained a low-power radio transmitter, received permission from a station in Colorado to carry its signal, and began transmitting that station via satellite. Neset's station extends about five miles in each direction, most of which consists of his farm.

When the manager of the AM station learned about Neset's broadcasts, he complained to the FCC's Minneapolis office, which convinced the local US Attorney to file a lawsuit against Neset. The charge? Broadcasting without a license. During a hearing, the FCC admitted that Neset was not interfering with any existing station (no FM stations exist in the area), but it stuck with its argument: It is illegal to broadcast without a license, and Neset did not have a license.

So why doesn't Neset obtain a license? He can't. Until 1980, the FCC issued Class D licenses, which granted the right to transmit at 10 watts. However, the Corporation for Public Broadcasting convinced the agency that 10-watt stations would clutter the lower end of the radio spectrum that might otherwise carry National Public Radio. So the FCC stopped issuing the licenses, and small stations were squeezed off the airwaves. Federal law prohibits anyone from broadcasting without a license, but the FCC refuses to grant anyone a license to operate a station, like Neset's, under 100 watts.

Micro-radio—low-powered, unlicensed stations—has been on the upswing in recent years. So too has FCC enforcement. There could be as many as 1,000 "pirate" stations on the air, and the FCC has taken more than 100 actions against micro-broadcasters in 1998 alone.

The move toward micro-radio has been boosted by the spread of increasingly affordable transmission equipment. The trend towards mergers and homogenization in the radio industry has encouraged people to take to the airwaves on their own: Neset's remote talk radio show, Spanish language shows in Cleveland, and a Berkeley, California station that broadcasted the plight of rebels in Chiapas, Mexico are among the micro-radio broadcasters.

While people often associate low-power broadcasting with the political Left, micro-radio has been of great interest to free-market advocates for decades. Economist Thomas Hazlett has argued that orderly allocation of the broadcast spectrum would be much better served by recognizing private property rights in the spectrum and treating any interference with those rights as a tort, abandoning the current FCC system of licensing and control.

The FCC's rationale for banning micro-radio is the supposed "scarcity" of broadcast frequencies. But scarcity of valuable goods is a universal fact—it cannot serve as justification for regulating one activity and not another. Moreover, the explosion of new communications technologies makes the scarcity doctrine obsolete.

FCC Commissioner Michael Powell is well aware of the government's overreach in this area: "[O]ne is left with the undeniable conclusion that the government has been engaged for too long in willful denial in order to subvert the Constitution so that it may impose its speech preferences on the public. . . ." Subverting the First Amendment is exactly what the FCC's prohibition on micro-radio does.

The FCC could create a system of licensing micro-broadcasters and monitoring the technical aspects of their broadcasts, similar to the system which exists for full-power broadcasters. This is not unprecedented. The FCC permitted micro-radio until the late 1970s—and other countries, including Japan and Canada, do so today.

The Corporation for Public Broadcasting convinced the FCC that 10-watt stations would clutter the lower end of the radio spectrum that might otherwise carry National Public Radio. So the FCC stopped issuing the licenses, and small stations were squeezed off the airwaves.

The one thing the FCC may not do, however, is completely prohibit micro-radio, for such a prohibition sweeps far beyond what is necessary or justified, and is not "narrowly tailored" as required under the First Amendment.

Until the legal issues are resolved or new policies formulated, the FCC at a minimum should take a "do no harm" approach. The agency can go after an unlicensed station that is shown to be interfering with another station. But until the FCC permits micro-broadcasting, it should allow farmer Neset and hundreds like him to exercise their free speech rights on the airwaves.

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A Free-Market Future for Spectrum

Transferring spectrum management from the FCC to private markets would increase economic growth and protect freedom of communication. (The Heritage Foundation, March 1996, 26 pp.)

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Request documents #7280401 (part 1, 15 pp.) and #7280402 (part 2, 11 pp.)

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AMERICA'S NEWSPAPER

The Washington Times

March 22, 1998 NATIONAL WEEKLY EDITION $2.50 (U.S.)

Clinton legal team balloons, creating a new controversy

Official doesn't know lawyers' scandal role

By Paul Bedard
THE WASHINGTON TIMES

The chief White House administrator said March 12 that she does not know whether White House lawyers are handling personal legal chores for the first family.

"I do not know specifically," Ada Posey, director of administration for the White House, told a House panel probing reports that President Clinton is misusing tax dol-

Four-person office grew to 34 since '92

By Paul Bedard
THE WASHINGTON TIMES

The White House counsel's office has swollen to become the largest and most expensive West Wing legal operation in history.

Initially a four-person office in early 1993, President Clinton's legal shop has grown to 34 lawyers, paralegals and researchers at a cost to taxpayers of $2.36 million in salaries annually, according to internal administra-

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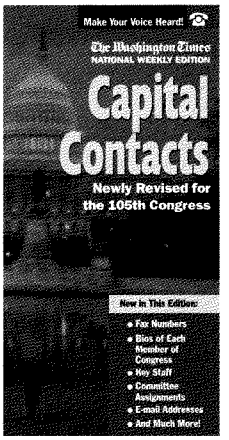

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Privatization

Adrian Moore & Wade Hudson

Adrian Moore is director of economic studies, and Wade Hudson is a policy analyst, for the Reason Public Policy Institute.

The Lap of Luxury: Privatizing Resorts

An underlying motive for privatization and public-private partnerships is to focus government resources on services only government can provide. Resorts and upscale recreation facilities clearly do not meet this test. Consequently, a recent survey by the Council of State Governments reports that nearly 75 percent of states have increased privatization of recreation functions over the last five years, and the same percentage anticipates increasing it further in the next five years.

Two recent examples worth examining in detail took place in New Hampshire and Georgia. New Hampshire recently leased out the Mount Sunapee ski area, and Georgia its Stone Mountain Park—similar actions, but done for very different reasons.

New Hampshire chose to lease the Mount Sunapee ski area partly out of a desire to upgrade it to a first-class ski area, and partly because the legislature was threatening to discontinue funding the money-losing operation. Okemo Mountain Resort won the lease and will be managing and operating Mount Sunapee. The state will receive $150,000 annually as well as 3 percent of gross receipts. No state employees will be thrown out of work—in fact, they have been guaranteed the same salary, seniority, and a comparable benefits package. Those provisions were seen by many as crucial to the success of the arrangement and helpful in allaying public concerns over its impact.

Okemo Mountain Resort is now in the middle of a $4 million renovation program, scheduled to be completed by this season's opening. The renovation will reduce the time it takes for the ski lift to reach the summit (from 15 minutes to 6), increase snow-making capabilities, and add other improvements.

Stone Mountain Park, in Georgia, faced a somewhat different situation. Governor Zell Miller has consistently sought to focus the state government's efforts on "primary missions" and shed operations outside its "core competency areas."

In line with this philosophy, the state contracted with Silver Dollar City to run Stone Mountain Park. Under the lease Georgia will receive $10 million annually and a percentage of receipts over $45 million. At the end of the lease the park and its assets revert back to state ownership.

A Price Waterhouse audit estimates that over the 50-year life of the lease the state will earn over one billion dollars and will receive a much-improved park at its end. Not only will the lease generate substantial income for the state—something the park had failed to do since its inception in 1958—but the state will avoid $20 million in deferred maintenance expenses that had built up over the past several years.

Since the contract went into effect earlier this year, Silver Dollar City has spent roughly $4 million on renovations and maintenance. It plans to spend substantially more.

A side effect of privatization has been a leveling of the playing field for hotels and resorts in the Atlanta region, long a point of contention for many area hotels. As a government-run facility the park and its hotel had not been required to pay taxes, which gave them an unfair competitive advantage. Now however, the park will pay taxes, as do other hotels and resort areas.

> *Nearly 75 percent of states have increased privatization of recreation functions over the last five years.*

Despite their differences, New Hampshire and Georgia do have some things in common. Regardless of the initial reasons to pursue privatization, both benefitted greatly from strong gubernatorial support; Governors Zell Miller of Georgia and Jeanne Shaheen of New Hampshire were both actively involved in the final decisions to contract out. Both deals were carefully negotiated to bring not only an end to taxpayer support for the resorts, but also privately financed improvements to them.

Both states are determined to press ahead with further privatization of resort areas, with Georgia looking at the Georgia International Horse Park and New Hampshire considering the future of Mount Cannon.

Lower government spending, better service, and capital improvements: a winning combination for resort customers and for taxpayers.

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Users Must Pay to Save Our National Parks

Government-financed and -managed national parks are in disrepair—self-sufficiency can improve them. (*Consumers' Research*, August 1997, 5 pp.)

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The Disabilities of ADA Regulations

Murray Weidenbaum

Murray Weidenbaum is chairman of the Center for the Study of American Business.

The Americans with Disabilities Act of 1990 (ADA) is a prime example of the shortcomings of government regulation—even those born out of the best intentions. Who can oppose a law designed to help disabled people get jobs?

Nevertheless, the economist's role is to raise the difficult questions others may avoid. Thus, we must ask, "How well is this well-intentioned law working?"

Sadly, the available data are not very supportive. One survey reported that the portion of men with disabilities who are working dropped from 33 percent in 1991 to 31 percent in 1995. Using a different definition of disability, another study showed no change. At the same time, both studies concluded that the proportion of men without disabilities at work rose slightly, from 81 percent to 82 percent.

Some reasons for these disappointing results seem clear. The ADA apparently scares some prospective employers away from hiring workers with disabilities. They fear the extended litigation that may arise from complicated provisions of ADA and the costs of the required accommodation.

Some ADA court cases surely create more problems than they solve. One such case required an employer to hire a second person to correct mistakes made by the disabled person. Having to hire two people to do one person's work certainly discourages prospective employers. Serious problems in employer-provided health insurance also may arise, such as coverage for "preexisting conditions."

A key reason, however, for the decline in the portion of people with disabilities at work has little to do with the ADA. It results from another federal program that works at cross-purposes with the ADA. Old Age, Survivors and Disability Insurance (OASDI) provides income to disabled people who are not working.

Although such transition payments are needed in the case of recoveries from severe accidents, most of the time they have become lifetime entitlements. Only 1 out of 1,000 people in the OASDI program ever returns to work. Outlays for this budget item have been rising rapidly, from $24 billion in 1990 to an estimated $47 billion for fiscal year 1997.

A related federal program (Supplemental Security Income) provides income to people with disabilities who are not covered by OASDI. Payments to these beneficiaries have risen from $6 billion in 1980 to $27 billion a year.

These expensive federal programs contain no provision for helping people get back to work. None of the money is used for rehabilitation, retraining, or assistance devices (such as computer-aided prosthetics). It may be unduly harsh to label these large federal outlays as the equivalent of old-fashioned welfare, but the similarities are striking.

Public policy toward people with disabilities should be changed. We need to avoid both extremes: (1) assuming that every unemployed person with a disability is being discriminated against and (2) pensioning off every person with a disability. As someone who has both pushed a wheelchair and helped make public policy, I believe I understand the need to subordinate emotion to hard-nosed analysis.

Consider why so many employers are hostile to the ADA. Original congressional bills were so poorly drafted that they covered active drug users and alcoholics. It took a great battle just to narrow the benefits to *recovering* drug addicts and alcoholics. Provisions of the final bill were so vague that at the outset the government warned employers that litigation was bound to ensue.

Regulatory approaches that cavalierly alienate employers provide no incentive to hiring people with a broad range of abilities and disabilities.

Some useful guidance can be obtained by studying the actual experience of employers who hire workers with disabilities. Northwestern University studied a segment of the disability workforce, those with mental disabilities. Employers rated these employees as "excellent" or "good" in overall job performance, willing to work hard, punctual, and productive. Two-thirds of the employers were very satisfied with their interactions with coworkers. However, only 40 percent were very satisfied with the interactions with customers.

Employers should be encouraged to assign people with disabilities to jobs that will minimize their problems and maximize their output. Regulatory approaches that cavalierly alienate employers provide no incentive to hiring people with a broad range of abilities and disabilities. And surely "welfare-type" programs should be a last resort, not a first.

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The Case against the Americans with Disabilities Act

This "feel-good" law imposes tremendous costs, yet its greatest beneficiaries are lawyers and those with questionable claims. (*Reason*, August/September 1995, 8 pp.)

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Taxes

Bill Ahern

Bill Ahern is Communications Director for the Tax Foundation.

Top-Earning Taxpayers Pay Most Federal Income Taxes

The latest data from the Internal Revenue Service show that more than half of all federal individual income taxes—50.8 percent—are paid by the 5 percent of taxpayers who earn the most. In 1996, the latest year for which data are available, this top 5 percent consisted of 5.9 million earners whose adjusted gross incomes (AGI) were higher than $101,202.

Even among this prosperous group, the highest earners paid the lion's share. The top 1 percent of earners in the country are paying close to one-third of all the taxes collected. That's approximately 1.19 million earners who paid 32.3 percent of 1996's federal individual income taxes.

A time series analysis of the data shows that since 1980, the share of federal individual income taxes borne by the top 5 percent has increased markedly. In 1980, those individuals paid 36.8 percent of federal individual income taxes—a hefty share but significantly less than their 50.8 percent share in 1996. Naturally, this has resulted in a corresponding decline in the share of the tax burden shouldered by the remaining 95 percent of taxpayers.

Taxes Paid by Income Group

The table presents a breakdown of total federal individual income tax payments by income percentile. It shows that the 32.3 percent share paid in 1996 by the top 1 percent of income earners—those with AGIs over $229,230—was considerably higher than the 25.0 percent they paid in 1986. Similarly, the 50.8 percent paid by the top 5 percent of income earners in 1996 was nine percentage points higher than the share paid by the same percentile of filers in 1986.

Likewise, in 1996, 62.4 percent of federal individual income taxes were collected from individuals in the top 10 percent of income earners, or those with incomes over $74,981. In 1986, just over half of all federal individual income taxes were collected from filers in this percentile. Meanwhile, the top half of the income scale paid 95.7 percent of 1996's federal individual income tax burden. Those earners had AGIs of at least $23,160. In 1986, this group bore 93.4 percent of this burden.

This decade-long shift in the tax burden toward higher income earners has obviously lightened the load on lower income filers. In 1986, individuals in the lower half of income earners paid 6.6 percent of total federal individual income taxes. By 1996 this figure had dropped to just 4.3 percent.

Money Earned vs. Taxes Paid

The table presents the income shares as well as the tax shares of the different income groups. While high-income earners claim relatively large shares of total income, they pay even greater shares of the federal individual income tax burden. For example, individuals in the top 1 percent of tax filers earned 16.0 percent of total AGI in 1996, but they paid 32.3 percent of federal individual income taxes during that year. The average effective federal individual income tax rate for this group was 28.7 percent. Similarly, tax filers in the top 5 percent of income earners earned 30.4 percent of total AGI during 1996, but paid 50.8 percent of total federal income collections. The average effective tax rate for this group was 23.9 percent.

While the top half of the income scale earned 85.9 percent of total AGI, it paid 95.7 percent of the taxes at an average effective tax rate of 15.9 percent. The bottom half, on the other hand, earned 14.1 percent of total AGI, but paid just 4.3 percent of total federal individual income taxes. The average effective federal individual income tax rate of this group was 4.4 percent.

Federal Individual Income Tax Return Data
1986 and 1996

		Number of Returns (000)	AGI ($000,000)	Income Taxes Paid ($000,000)	Group's Share of Total AGI	Group's Share of Total Taxes	Income Split Point	Average Tax Rate
1986	All Taxpayers	102,088	2,524,124	360,566	100.0%	100.0%	-	14.3%
	Top 1%	1,021	285,197	90,236	11.3%	25.0%	above $118,818	31.6%
	Top 5%	5,104	608,467	150,750	24.1%	41.8%	above $62,377	24.8%
	Top 10%	10,209	886,510	194,821	35.1%	54.0%	above $48,656	22.0%
	Top 25%	25,522	1,490,173	272,748	59.0%	75.6%	above $32,242	18.3%
	Top 50%	51,044	2,103,569	336,926	83.3%	93.4%	above $17,302	16.0%
	Bottom 50%	51,044	420,555	23,640	6.6%	6.6%	below $17,302	5.6%
1996	All Taxpayers	119,442	4,590,527	655,420	100.0%	100.0%	-	14.3%
	Top 1%	1,194	736,340	211,354	16.0%	32.3%	above $229,230	28.7%
	Top 5%	5,972	1,393,795	332,802	30.4%	50.8%	above $101,202	23.9%
	Top 10%	11,944	1,909,149	408,783	41.6%	62.4%	above $74,981	21.4%
	Top 25%	29,860	2,952,604	532,563	64.3%	81.3%	above $45,833	18.0%
	Top 50%	59,721	3,944,386	626,959	85.9%	95.7%	above $23,160	15.9%
	Bottom 50%	59,721	646,141	28,461	14.1%	4.3%	below $23,160	4.4%

Source: Tax Foundation.

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Should Congress Mandate a Supermajority Vote for All Tax Increases

Representatives Joe Barton and David Skaggs debate whether a 2/3 majority requirement would complicate honest efforts at real tax reform. (*Insight*, May 1998, 4 pp.)

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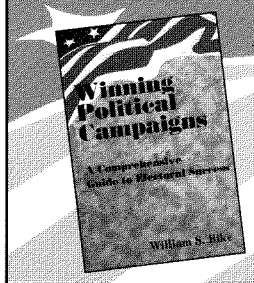

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Welfare

Robert Rector and Sarah Youssef

Robert Rector is a policy analyst and Sarah Youssef is a research assistant at The Heritage Foundation.

How Poor Are America's Poor?

According to the US Census Bureau, 36 million Americans are "living in poverty." Can this alarming claim really be true? The simple answer is: No.

To most Americans, "poverty" means destitution: an inability to provide a family with nutritious food, appropriate clothing, and reasonable shelter. In reality, only a small fraction of persons classified as "poor" by the Census Bureau meet this description. The bulk of the "poor" live in material conditions that would have been judged comfortable or well-off just a few generations ago. Most "poor" Americans today are better housed, better fed, and own more personal property than average Americans throughout much of this century. Various government reports provide an interesting portrait of those the Census Bureau calls "poor."

In 1995, 41 percent of all "poor" households owned their own homes. The average home owned by persons classified as "poor" is a three-bedroom house with one-and-a-half baths, a garage, and a porch or patio. Over three-quarters of a million "poor" persons own homes worth over $150,000; nearly 200,000 "poor" persons own homes worth over $300,000.

> *The bulk of the "poor" live in material conditions that would have been judged comfortable or well-off just a few generations ago.*

Only 7.5 percent of "poor" households are overcrowded. Nearly 60 percent have two or more rooms per person. The average "poor" American has a third more living space than the average Japanese and four times as much living space as the average Russian. Note: These comparisons are to the average Russians and Japanese, not to those the government classifies as poor.

Seventy percent of "poor" households own a car; 27 percent own two or more cars. Two-thirds of "poor" households have air conditioning. By contrast, 30 years ago only 36 percent of the entire US population enjoyed air conditioning.

Ninety-seven percent of "poor" households have a color television. Nearly half own two or more color televisions. Nearly three-quarters have a VCR; almost one in five has two VCRs. Sixty-four percent own microwave ovens; half have a stereo system; and over a quarter have an automatic dishwasher.

Despite frequent charges of widespread hunger in the US, 84 percent of the poor say their families have "enough" food to eat; 13 percent state they "sometimes" do not have enough to eat; while 3 percent report they "often" do not have enough to eat.

As a group the "poor" are far from being chronically hungry and malnourished. In fact, poor persons are more likely to be overweight than are middle-income persons. Nearly half of poor adult women are overweight.

The average consumption of protein, vitamins, and minerals is virtually the same for poor and middle-income children, and in most cases is well above recommended norms for all children. Most poor children today are in fact super-nourished. On average, poor boys grow up to be one inch taller and ten pounds heavier than the GIs who stormed the beaches of Normandy in World War II.

Why the Misleading Picture?

Why is the Census Bureau's poverty report so inaccurate? The main problem is that the Bureau dramatically undercounts the incomes of Americans. This undercount is evident if Census Bureau figures are compared to Commerce Department data, which measure the Gross Domestic Product.

In 1997, Commerce Department figures showed the aggregate "personal income" of Americans (including personal payments of Social Security taxes) was $7 trillion. By contrast, aggregate personal income, according to the Census Bureau's official income definition, was only $5 trillion.

The Census Bureau missed $2 trillion in annual income—roughly $20,000 for each US household. The unreported $2 trillion exceeds the entire economies of all but a handful of nations in the world.

Adjusted for inflation, the missing funds are larger than the entire US Gross Domestic Product in 1950. True, much of this missing income belongs to the middle-income and wealthy, but a large slice of it belongs to low-income families as well. For example, the Census Bureau's official income figures fail to report more than one-half trillion dollars in government assistance to low-income and elderly households.

Sadly, the Census Bureau report not only exaggerates material poverty in our nation, but, even worse, it distracts attention from the critical behavioral problems afflicting low-income communities: illegitimacy, crime, school failure, and drug abuse. As such, it does a disservice to our society and the poor.

PFax

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How Poor Are the Poor?
Statistics from the Bureau of Labor Statistics reveal that many lower-income persons live better than their income alone suggests. (National Center for Policy Analysis, *Brief Analysis*, October 1995, 3 pp.)

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The War over Windows

by Mike Elgan

The US Department of Justice is waging all-out war against Microsoft over the future of Windows. In response, Microsoft has launched a counterattack of flag-waving ads and PR stunts so unappealing I almost didn't write this column. But if you strip away the bull about how the freedom to innovate is as American as apple pie, etc., Microsoft makes some good points.

The Justice Department's antitrust division, headed by anti-Microsoft chief Joel Klein, will do you—the PC user—more harm than good. The DOJ isn't exploring allegations of any new wrong-doing, by the way—just new penalties. Its case depends upon a "yes" answer to three questions:

Is Microsoft a monopoly? Legal experts disagree. There's no question that Windows dominates. The question is, are consumers harmed by that dominance? Monopolies are bad because they lock in customers, giving monopolists the power to raise prices, stifle innovation, and exclude competitors. None of those conditions prevail in the PC marketplace. Consumers can switch operating systems. Software prices are constantly dropping. Innovation is rampant. And competitors—Mac OS, OS/2, Solaris, Unix, other flavors of UNIX, even Java—really do exist.

The market is our best protection against potential abuse by Microsoft. But what will protect us from the DOJ?

Do browser features in Win98 prove "bundling"? It's open to discussion whether Internet Explorer features in Win98 represent the bundling of a standalone application or simply the natural evolution of operating system design.

For example, graphical interfaces, integrated networking, and support for multimedia all started out as separate applications but were subsumed by every operating system. It's far from obvious whether browser functionality should exist in separate browser applications or if that functionality should reside in applications and operating systems instead.

Scrutiny and regulation of the software industry will stifle innovation by rewarding government regulation—instead of motivating companies to compete at the product level.

I predict that, five years from now, there won't be any browsers—almost all connected software will support hyperlink navigation and Internet standards, unless the government intervention derails this natural product evolution.

Are Microsoft's exclusivity contracts illegal? The answer depends on questions one and two. If Microsoft isn't a monopoly or if browser features should be part of the operating system, then Microsoft's exclusivity deals with PC makers and ISPs [Internet Service Providers] are perfectly legal and totally normal.

Antitrust law is supposed to protect you, the consumer. The DOJ is abusing antitrust law to instead protect Netscape's market share in browsers. And consider this:

- The antitrust threat will force Microsoft to spend less time thinking about what you want in future versions of Windows and more time thinking about what Joel Klein wants.
- Scrutiny and regulation of the software industry will stifle innovation by rewarding government regulation—instead of motivating companies to compete at the product level. You can expect to pay higher prices for products that aren't as innovative as they should be.

Though not perfect, the market is our best protection against potential abuse by Microsoft. But what will protect us from the DOJ, which wants to redesign Windows and damage the industry's most successful company?

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Despite all the hype, Microsoft is actually a medium-sized company, ranking about 400th in 1997 revenues worldwide. IBM dwarfs Microsoft with 1997 revenues of $76 billion, nearly seven times as much as Microsoft. Even co-conspirator Intel has twice the revenue and three times the staff. And yet, in terms of market capitalization, Microsoft is No. 2 (after GE). Why?

Microsoft is valuable to stockholders because it's the most influential company in the world's most important industry; its intellectual property—software—is in almost every PC user's face all day, every day; and the company is well-positioned to continue its dramatic growth well into the future. Microsoft's importance, ubiquity, and golden position stem directly or indirectly from Windows. Don't expect Microsoft to give that up without a fight.

Until someone comes up with an open, wildly popular Windows-compatible alternative backed by a huge company, Windows will remain No. 1.

Is that good or bad? let me know at: melgan@winmag.com.

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From the June 1998 and October 1998 issues of *Windows* Magazine, of which Michael Elgan is editor.

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The Kyoto Protocol and U.S. Agriculture

by Terry Francl, Richard Nadler, and Joseph Bast

On October 30, The Heartland Institute released *Heartland Policy Study* #87, "The Kyoto Protocol and U.S. Agriculture," by Terry Francl, Richard Nadler, and Joseph Bast. The 32-page report is available from The Heartland Institute for $10. It is also available on the World Wide Web at http://www.heartland.org.

Terry Francl is senior economist and commodity specialist in the public policy division of the American Farm Bureau Federation; Richard Nadler is editor-in-chief of *K.C. Jones*, a monthly newspaper published in Kansas City, Missouri; and Joseph Bast is president of The Heartland Institute.

We are eager to hear your comments on this summary of their work; send email to jbast@heartland.org.

Proposals to tax fossil fuels or cap carbon dioxide emissions would raise the cost of many farm inputs, from fertilizer and other chemicals to fuel and motor oil.

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Farmers have a major stake in the debate over global warming.

Farming generates approximately one-fifth of greenhouse gas emissions in the U.S. Approximately half of man-made nitrous oxide emissions are thought to come from the application of nitrogen-based fertilizers to farmlands, and approximately one-third of methane emissions are traced to bovine flatulence and manure management. According to the Intergovernmental Panel on Climate Change, stabilizing current atmospheric concentrations of nitrous oxide and methane would require global emission reductions of 8 percent and more than 50 percent, respectively.

Agricultural production in the U.S. is an energy-intensive process. Fuel and oil costs account for about 30 percent of a typical farm's total energy bill, while the remaining 70 percent lies hidden in the prices of manufactured inputs, such as fertilizer and pesticides. For example, natural gas typically accounts for 75 percent of the cash cost of manufacturing anhydrous ammonia, a basic feedstock for all nitrogen fertilizer products. Energy accounts for half or more of the underlying cash production costs for nearly all of a farm's manufactured inputs.

For that reason, proposals to tax fossil fuels or cap carbon dioxide emissions would raise the cost of many farm inputs, from fertilizer and other chemicals to fuel and motor oil.

The Kyoto Protocol would have dramatic, negative effects on U.S. farmers.

The Clinton Administration contends the requirements of the Kyoto Protocol could be met by imposing the equivalent of a 25 cents-per-gallon tax on gasoline. Independent sources place the true cost at between 60 and 68 cents per gallon. To make their analysis as conservative as possible, the authors chose two scenarios: a low estimate of 25 cents and a high estimate of 50 cents.

Table 1 shows the impact of higher energy prices on the average variable cash expense and net profits of producing six commodities. The average farmer would see his or her operating expenses increase by between 3.8 percent (for milk) and 15.5 percent (for corn) if gasoline taxes are raised by 25 cents per gallon. A 50-cents-per-gallon price increase would increase expenses by between 7.5 percent (again for milk) and 31.7 percent (again for corn).

The 25 cents-per-gallon tax would reduce net profits by at least 10 percent (for soybeans) or as much as 40 percent (for hogs). A 50 cents-per-gallon tax reduces net profits on soybean production by 20.5 percent and net profits on hogs by a dramatic 84.5 percent. Milk producers would see net profits fall by over half.

Table 1: Impact of Higher Energy Costs on Agriculture
(dollars per acre or hundredweight)

	Base	Low	High	Base	Low	High
	Corn			Cotton		
Variable cash expenses	$147.08	$169.92	$193.65	$276.95	$312.17	$347.38
Change		15.5%	31.7%		12.7%	25.4%
Net profit	$99.11	$76.70	$52.50	$143.36	$108.14	$72.93
Change		-23.0%	-47.0%		-24.6%	-49.1%
	Soybeans			Wheat		
Variable cash expenses	$75.76	$86.11	$96.45	$54.58	$61.87	$69.15
Change		13.7%	27.3%		13.4%	26.7%
Net profit	$100.91	$90.56	$80.22	$25.48	$18.19	$10.91
Change		-10.0%	-20.5%		-28.6%	-57.2%
	Hogs			Milk		
Variable cash expenses	$38.44	$40.32	$42.41	$11.35	$11.78	$12.20
Change		4.9%	10.3%		3.8%	7.5%
Net profit	$4.70	$2.82	$0.73	$1.60	$1.17	$0.75
Change		-40.0%	-84.5%		-26.9%	-53.1%

The average farmer could see net profits fall by about one-fourth if gasoline taxes were raised by 25 cents a gallon, the minimum amount of increase needed, according to the Clinton Administration, to meet the requirements of the Kyoto Protocol. If taxes were raised by 50 cents a gallon, as is more likely to be the case, then the average farmer loses half his net profits.

Hundreds of thousands of farms would be bankrupted or forced to consolidate.

Table 2 presents the results of a "macro" analysis of the effects of higher energy taxes on the U.S. agricultural sector. Total U.S. farm production expenses would rise by over $10 billion if gasoline taxes

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were raised 25 cents a gallon, and by more than $20 billion if taxes were raised 50 cents a gallon. Those figures are 5.8 percent and 11.7 percent, respectively, of total 1995 production expenses of $175.5 billion.

Annual U.S. net farm income averaged $42.7 billion over the period 1991 to 1995. The increased expense of a 25 cents-per-gallon gasoline tax would equal 24 percent of net farm income, while a 50 cents-per-gallon tax would equal 48 percent of net farm income.

The significant decline in farm income would force hundreds of thousands of small farmers, who typically have a higher average cost of production, to sell to large farmers. Young farmers just starting could find themselves in an unprofitable situation that might force them to abandon agriculture. Not only would this hurt lenders, but it would also have an adverse economic impact on small towns and rural America in general.

> *"The simplest way to remove carbon dioxide," says Dr. Gregory Benford, a physics professor at the University of California in Irvine, ". . . is to grow plants—preferably trees, since they tie up more of the gas in cellulose."*

Farmers can, and should, participate in the global warming debate.

Farmers can play a unique role in the national debate over global warming by describing the benefits of higher levels of carbon dioxide (CO_2) in the atmosphere. By boosting photosynthesis and the efficiency with which plants use water, a doubling of CO_2 levels increases plant growth by about one-third. Farmers witness this effect every day, and can encourage debate over the benefits as well as the challenge posed by rising CO_2 concentrations in the atmosphere.

Farmers can also voluntarily participate in projects that reduce agricultural emissions and sequester CO_2 from other sources. "The simplest way to remove carbon dioxide," says Dr. Gregory Benford, a physics professor at the University of California in Irvine, ". . . is to grow plants—preferably trees, since they tie up more of the gas in cellulose." Land plants contain roughly three times as much CO_2 as the atmosphere. The agricultural techniques and technologies that would reduce emissions include practices many farmers already use routinely:

- Minimize soil erosion
- Preserve and restore natural wetlands
- Plant tree plantations
- Use conservation tillage
- Retain forest slash on site
- Use mulching to increase carbon fixing
- Leave crop residue in fields after harvests
- Maintain and improve soil fertility

U.S. farmers lead the world in the use of progressive agricultural practices that minimize erosion, enhance soil fertility, and in other ways sequester carbon while minimizing emissions. If left unhampered by energy taxes or burdensome regulations, they will make further progress in limiting unnecessary emissions, as it is in their long-term self-interest to do so.

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Based on *Heartland Policy Study* #87, "The Kyoto Protocol and U.S. Agriculture," by Terry Francl, Richard Nadler, and Joseph Bast. Copies are available from The Heartland Institute for $10.00 each. Copyright 1998 The Heartland Institute.

Table 2: Total U.S. Farm Production Expenses (millions of dollars)

	Base Year 1995	Estimated expenses with higher energy prices		Estimated expenses with higher energy prices	
		25¢ per gallon tax	50¢ per gallon tax	25¢ per gallon tax	50¢ per gallon tax
Feed purchased	$24,528	$26,000	$27,471	$1,472	$2,943
Livestock & poultry purchased	$12,557	$11,929	$11,301	($628)	($1,256)
Seed purchased	$5,463	$5,791	$6,119	$328	$656
Total farm-origin inputs	$42,548	$43,720	$44,891	$1,172	$2,343
Fertilizer & lime	$10,034	$11,790	$13,545	$1,756	$3,511
Fuels & oils	$5,687	$7,109	$8,531	$1,422	$2,844
Pesticides	$7,719	$9,263	$10,807	$1,544	$3,088
Total manufactured inputs	$23,440	$28,162	$32,883	$4,722	$9,443
Total interest charges	$12,757	$13,395	$14,033	$638	$1,276
Other operating expenses	$59,964	$62,962	$65,960	$2,998	$5,996
Capital consumption	$19,107	$20,062	$21,018	$955	$1,911
Taxes	$6,891	$7,236	$7,580	$345	$689
Net rent to nonoperator landlords	$10,873	$10,295	$9,753	($578)	($1,120)
Other overhead expenses	$36,871	$37,593	$38,351	$722	$1,480
Total production expenses	$175,580	$185,832	$196,118	$10,252	$20,538
Percent change		5.8%	11.7%		

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Youngstown and the Future of Private Prisons

by Sam Staley and Adrian Moore

The escape of six inmates from a privately owned and operated prison in Youngstown, Ohio last July was a wake-up call for state policymakers across the country.

The immediate, emotional reaction of some was to call for the immediate closure of the facility. The long-term lesson of Youngstown, however, may prove to be much different. Rather than demonstrating why we should close private prisons, the Youngstown case may well show why the private sector's role in prison management and construction should expand.

Youngstown may well show why the private sector's role in prison management and construction should expand.

While the escape caused justifiable alarm—Ohio has not had an escape from a medium- or high-security prison since 1995—the aftermath is showing that privatization comes with an important benefit: market accountability.

Within one week of the escape, Corrections Corporation of America (CCA) developed a plan to beef up security that appeased even George McKelvey, Youngstown's mayor and prison critic. Most of the elements of that plan were in place by the end of August.

Without waiting for a committee to convene, investigate, or develop recommendations, CCA implemented a number of security enhancements, including:

- a full-time checkpoint with metal detectors for all workers
- more razor ribbon wire between fences
- a new gun tower outside the perimeter fence overlooking the recreation yard
- a doubling of its perimeter patrol vehicles.

Privatization comes with an important benefit: market accountability.

Some may argue that this response was an inevitable result of public pressure. Yet, legally, Ohio officials could do little more than pontificate on closing the prison. Governor George Voinovich eventually conceded that a government takeover of the private prison was not legally possible or advisable.

Instead, the reason for CCA's quick response is more likely to be found in other cities across the nation, starting 500 miles away on Wall Street.

CCA is a publicly owned company whose stock trades daily on the New York Stock Exchange. On July 24, the day before the escape, CCA's stock closed at $22.50 a share. After the escape, CCA's stock fell quickly, eventually bottoming out at $16.87 a share. That's a 25 percent drop in just three weeks—not the kind of performance a company promises its shareholders. It's certainly not the performance CCA was promising when it released a robust earnings report just three days before the escape.

At the same time, CCA is busy negotiating new contracts or renewing old ones in over a dozen states, and reputation is crucial to beat the competition. If CCA does not act quickly to solve the problems at Youngstown and satisfy its customers, it will suffer in the market for new contracts.

All this does not whitewash CCA. Quite the contrary. CCA made several big mistakes—like failing to remove inmates misclassified by the Washington, DC government—all of which justified Youngstown's and Wall Street's jitters. CCA also paid too little attention to employee and inmate safety during its first year of operation.

But state and local policymakers should not jump to conclusions about prison privatization. Youngstown's trials aside, research shows that private prisons have important advantages beyond market accountability, including:

- incentives to keep prisoners healthy to lower prison operating costs
- savings of 5 to 28 percent on operating costs in a competitive market
- generally lower overall escape rates compared with publicly run prison systems
- private prisons are seven times more likely to be accredited by the American Correctional Association than public prisons.

CCA's track record suggests the Youngstown facility is an anomaly, not the standard for the private prison industry. CCA, in fact, successfully runs the fifth-largest private prison system in the nation, operating 78 facilities domestically and abroad. Its system includes more than 63,500 beds, 28 percent more than Ohio's state prison system.

Policymakers should neither derail Ohio's experiment with prison privatization nor micromanage prisons. Financial markets are showing that private prison companies will be held accountable for their performance. An additional part of the solution is to ensure that the right kinds of contract enforcement and legal accountability rules are in place to hold all prison operators—public or private—to the letter and intent of the contracts they sign.

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Sam Staley is a senior policy analyst with The Buckeye Institute for Public Policy Solutions. Adrian Moore is the director of privatization and government reform for the Reason Public Policy Institute. Reprinted with permission of The Buckeye Institute for Public Policy Solutions.

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